

**Relevant extracts of the Town Planning Board Guidelines No. 13E for
“Application for Open Storage and Port Back-up Uses”
(TPB PG-No.13E)**

1. On 17.10.2008, the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13E) were promulgated, which set out the following criteria for the various categories of area:
 - (a) Category 1 areas: favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns;
 - (b) Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas;
 - (c) Category 3 areas: applications would normally not be favorably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions; and
 - (d) Category 4 areas: applications would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. The intention is however to encourage the phasing out of such non-conforming uses as early as possible. A maximum period of 2 years may be allowed upon renewal of planning permission for an applicant to identify suitable sites for relocation. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merit.

2. In assessing applications for open storage and port back-up uses, the other major relevant assessment criteria are also summarized as follows:
- (a) there will be a general presumption against development on sites of less than 1,000 m² for open storage uses and 2,000 m² for port back-up uses in rural areas, other than sites located in major corridors, industrial/godown/workshop areas, quarrying activities or where it is demonstrated that optimum use is made of the site. This is to prevent the further proliferation of small sites in rural areas, minimizing sprawl over countryside areas and reducing travel trips;
 - (b) port back-up sites and those types of open storage uses generating adverse noise, air pollution and visual intrusion and frequent heavy vehicle traffic should not be located adjacent to sensitive receivers such as residential dwellings, hospitals, schools and other community facilities;
 - (c) port back-up uses are major generators of traffic, with container trailer/tractor parks generating the highest traffic per unit area. In general, port back-up sites should have good access to the strategic road network, or be accessed by means of purpose built roads;
 - (d) adequate screening of the sites through landscaping and/or fencing should be provided where sites are located adjacent to public roads or are visible from surrounding residential areas;
 - (e) there is a general presumption against conversion of agricultural land and fish ponds to other uses on an ad hoc basis, particularly in flood prone areas or sites which would obstruct natural drainage channels and overland flow; and
 - (f) for applications involving sites with previous planning approvals, should there be no evidence to demonstrate that the applicants have made any genuine effort to comply with the approval conditions of the previous planning applications, planning permission may be refused, or a shorter compliance period for the approval conditions may be imposed, notwithstanding other criteria set out in the Guidelines are complied with.

Previous Application covering the Application Site

Approved Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
1.	A/YL-TYST/612	Temporary Warehouse for Storage of Provisions with Ancillary Logistics Centre for a Period of 3 Years	8.2.2013 [revoked on 8.4.2015]	(1), (2), (3), (4), (5), (6), (7), (8)
2.	A/YL-TYST/762	Temporary Warehouse for Storage of Provisions with Ancillary Workshop and Logistics Centre for a Period of 3 Years	6.11.2015 [revoked on 6.2.2018]	(1), (2), (4), (5), (6), (7), (8), (9), (10), (11)

Approval Conditions

- (1) No operation between 9:00 p.m. to 7:00 a.m. is allowed on the Site.
- (2) No operation on Sundays or public holidays is allowed.
- (3) No dismantling, repairing, cutting, grinding, cleansing and other workshop activities are allowed to be carried out on the Site.
- (4) No goods vehicles exceeding 16 tonnes (including container tractor/trailer) are allowed to park/store on or enter/exit the Site.
- (5) Submission and/or implementation of tree preservation and landscape proposal.
- (6) Submission and implementation of drainage proposal.
- (7) Submission and implementation of fire service installations proposal.
- (8) Revocation of planning approval if any of the conditions is not complied with by the specified date/at any time during the approval period.
- (9) No vehicle is allowed to queue back to or reverse onto/from public road.
- (10) Provision of boundary fence on the Site.
- (11) Maintenance of drainage facilities on the Site.

Advisory clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the application site (the Site);
- (b) to resolve any land issues relating to the development with the concerned owner(s) of the Site;
- (c) shorter compliance period is imposed in order to monitor the progress of compliance with approval conditions. Should the applicant fail to comply with any of the approval conditions resulting in the revocation of planning permission, sympathetic consideration may not be given to any further application;
- (d) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that the Site comprises New Grant Lots and Old Scheduled Agricultural Lots (OSAL). Lots 1819 and 2008 S.H RP in D.D. 121 are New Grant lots which shall not be used for any purpose other than as an orchard. Lot 1092 S.A is an OSAL held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. Lot 1092 S.A in D.D. 121 and the associated GL is covered by Short Term Waiver (STW) No. 431 and Short Term Tenancies (STT) No. 754 respectively which permits the structure(s) erected thereon for the purpose of "Cotton Factory". Lot 1819 in D.D. 121 and the associated GL is covered by STW No. 4511 and STT No. 2975 respectively which permits the structure(s) erected thereon for the purpose of "Temporary Warehouse for Storage of Provisions with Ancillary Workshop and Logistic Centre". Lot 2008 S.H RP is covered by STW No. 1806 which permits the structure(s) erected thereon for the purpose of "Animal Feeds Production Factory". The Site is accessible from Tong Yan San Tsuen Road via GL. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way over the GL to the Site. The STW/STT holder(s) will need to apply to her office for modification of the STW/STT conditions, where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structures(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by her department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by her department;
- (e) to note the comments of the Commissioner for Transport that the land status of the access road/path/track leading to the Site at Tong Yan San Tsuen Road shall be checked with the lands authority. The management and maintenance responsibilities of the access road/path/track shall be clarified with the relevant management and maintenance authorities accordingly. The applicant is reminded that sufficient space within the Site should be provided for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed;
- (f) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that adequate drainage measures should be provided to prevent surface water flowing from the site to the nearby public road/drains. His office shall not be responsible for the maintenance of any access connecting the Site and Tong Yan San Tsuen Road;
- (g) to follow the latest "Code of Practice on Handling the Environmental Aspects of Temporary

uses and Open Storages Sites” issued by the Environment Protection Department to minimize any potential environmental nuisances;

- (h) to note the comments of the Director of Fire Services that the applicant is advised that the installation /maintenance/ modification/ repair work of FSI shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him. The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and
- (i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of his department, they are unauthorized building works (UBW) under the BO and should not be designated for any proposed use under the application. For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO. Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of his department should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO. The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively. If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.